

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference CPW/CRT/20730	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/02979	International filing date (day/month/year) 09.07.2003	Priority date (day/month/year) 09.07.2002
International Patent Classification (IPC) or both national classification and IPC A61L31/14		
Applicant SSL INTERNATIONAL et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

I ☒ Basis of the opinion

II ☐ Priority

III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability



IV ☐ Lack of unity of invention

V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

VI ☐ Certain documents cited

VII ☐ Certain defects in the international application

VIII ☐ Certain observations on the international application

Date of submission of the demand 13.01.2004	Date of completion of this report 04.10.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Staber, B Telephone No. +49 89 2399-8587 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/02979**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-9 as originally filed

Claims, Numbers

1-16 as originally filed

Drawings, Sheets

1/1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/02979**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3, 6-11, 14
	No: Claims	1, 4, 5, 12, 13, 15, 16
Inventive step (IS)	Yes: Claims	6
	No: Claims	1-5, 7-16
Industrial applicability (IA)	Yes: Claims	1-16
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/02979

Section V

The following document is taken into consideration:

D1: DATABASE EMBASE [Online] ELSEVIER SCIENCE PUBLISHERS, AMSTERDAM, NL; 1992 KANG N ET AL: 'The pathological effects of glove and condom dusting powders' Database accession no. EMB-1992360237 XP002244048 & JOURNAL OF APPLIED TOXICOLOGY 1992 UNITED KINGDOM, vol. 12, no. 6, 1992, pages 443-449, ISSN: 0260-437X

1. Novelty

It is known in the art that calcium carbonate (CaCO_3) and magnesium carbonate (MgCO_3) powders are used on latex gloves as well as on condoms in order to facilitate processing and the use thereof (cf. D1, abstract).

Calcium carbonate (CaCO_3) and magnesium carbonate (MgCO_3) are inorganic compounds which are substantially water insoluble while powders are particles including spherical particles having a particle size of less than 100 nm.

Hence, the dusting powder mentioned in D1 fall within the scope of present invention and therefore destroys novelty of claims 1, 4, 5, 12, 13, 15 and 16.

2. Inventive Step

With the exception of claim 6 referring to a specific spherical basic magnesium carbonate for which unexpected effects have been shown in relation to the standard magnesium carbonate, no inventive step can be acknowledged since the subject matter represents merely conventional modifications and variation. For instance, spray drying is a very well known technique for producing spherical products.

Hence claims 1 to 5 and 7 to 16 does not fulfil the requirements of Art. 33(3) PCT.

3. In this context, it should be mentioned that the frequent use of the term "substantially" renders the scope of claims 1 and 15 unclear.

In addition claim 2 is not clear in its scope due to fact that the circularity factor of standard magnesium carbonate is not fixed value but may depend on various conditions, such as the production process thereof. Further, the circularity factor

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/02979

(even if properly defined in the description) is an unusual parameter which in general is unknown for inorganic microparticulates with the exception of those compounds mentioned in the description. Since it cannot be determined whether or not a selected inorganic compound has the required circularity factor, said factor cannot be used to distinguish the inorganic compound from the prior art compounds.